

November 25, 2008

Chairman Blake called the meeting of the Tipp City Restoration and Architectural Board of Review to order on Tuesday, November 25th, 2008 at 7:32 p.m. Other Board members in attendance included: David Watkins, Robert Himes, Joe Bagi, and Mark Mabelitini. Also in attendance were City Planner/Zoning Administrator Matthew Spring and Marilyn Fennell.

Citizens signing the register: There were none.

Absences

Mr. Mabelitini **moved to excuse Mr. Watkins from the meeting**, seconded by Mr. Blake. **Motion carried.** Ayes: Mabelitini, Blake, Bagi, Kidwell, and Himes. Nays: None.

Minutes

Chairman Blake asked for discussion. There being none, Mr. Bagi **moved to approve the October 28, 2008, meeting minutes as written**, seconded by Mr. Himes. **Motion carried.** Ayes: Bagi, Himes, Mabelitini, and Blake. Nays: None. Mr. Kidwell abstained from the vote.

Citizens Comments Not on the Agenda

There were none.

New Business

Mr. Spring referred to the following zoning code:

Zoning Code 36.047(B) states:

The Restoration Board shall prepare an annual plan outlining its priorities and activities. A draft plan shall be written by Restoration Board members with assistance from the Community and Economic Development Department. The draft plan shall be submitted for review by the Restoration Board in November, and copies provided for Council and public review for 30 days. An approved plan shall be implemented effective January 1.

Board Members reviewed the 2009 Plan and made the following amendments as noted in italics below.

2009 ANNUAL PLAN

1. Distribute a copy of the Guidelines for the Old Tippecanoe City Restoration and Architectural District Booklet to all existing residents, tenants, and property/business owners within the Historical District.

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2. Distribute the Guidelines Booklet to all new residents, tenants, and property/business within the Historical District as needed.
3. Review City Code as it pertains to the Restoration Board and make recommendations for changes/updates as necessary, including the underlying zoning districts.
4. In association with the ongoing FY 2008 Certified Local Government grant, provide assistance to the Ohio Historic Preservation Office and City consultant firm regarding the development of a Multiple Property Documentation and associated nominations to the National Register of Historic Places.
5. Continue to upgrade the section at the library pertaining to Restoration and Preservation.
6. Review photograph file and update as necessary.
7. Review physical limits of the R/A district when property owners request addition to district.
8. Update Guidelines for the Old Tippecanoe City Restoration and Architectural District Booklet for printing and distribution in 2009.
9. Seek grant opportunities and funding sources in accordance with the goals delineated in the Tipp City Historic Preservation Plan.
10. Explore opportunities to work with the Downtown Tipp City Partnership and the Design Subcommittee regarding the education and motivation of the public.
11. Develop and disseminate new promotional materials to further the purposes of the Restoration Board.
12. *Identify distressed, neglected, or at risk properties.*

Board Members agreed to meet in the future to revamp the Guidelines booklet with hopes for completion by the end of 2010. It was noted that guidance from the law director would be needed in order to implement the definitions of item number twelve and how to implement them.

Mr. Spring updated the Board on how demolition by neglect worked.

Chairman Blake asked for further discussion. There being none, Chairman Blake **moved to approve the Restoration and Architectural Board of Review 2009 Annual Plan as**

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amended to include line item number twelve, seconded by Mr. Kidwell. **Motion carried.**
Ayes: Blake, Kidwell, Mabelitini, Bagi, and Himes. Nays: None.

Old Business

There was none.

Miscellaneous

Mr. Spring stated that at the October 28, 2008 meeting, the Restoration Board forwarded a request to the City Planner/Zoning Administrator to provide a description of the enforcement process in the event of an alleged infraction of Zoning Code §154.052.

The penalty for any such infraction is found in Zoning Code §154.999(C) which states:

Whoever violates § 154.052 is guilty of a minor misdemeanor. Each day's violation shall constitute a separate offense.

Mr. Spring noted that the process to enact such a penalty was not specifically defined in Code, but was generally as follows:

1. Alleged infraction of Code is noted by staff or reported by a citizen
2. Documentation and observation of said infraction is obtained by the Zoning Administrator
3. Depending on the nature of the infraction contact is made with the property owner requesting compliance with the appropriate Code Section(s) as follows:
 - a. Minor infraction – Telephone or mail (reminder letter)
 - b. Moderate infraction – Mail (warning letter)
 - c. Major or repeat offence – Mail (zoning violation)
4. If compliance cannot be reached through the initial contact as noted in #3 above, a second contact is made via USPS. Certified Mail, with return confirmation is often, but not always used.
5. If compliance cannot be reached through the second contact as noted in #4 above, the process may be repeated with Certified Mail (if not sent Certified Mail previously) and/or a process server (delivery via delivery person).
6. If the above contact methods do not produce compliance with Code, a request for charges is placed to Law Director Moore. This involves the promulgation of a complete memorandum detailing the existing situation, documentation of conditions, previous contacts, etc.
7. Through conversations with Law Director Moore and City Prosecutor Kendal appropriate Code Sections and number of charges are determined.
8. The charges are then filed with the Miami County Municipal Court.
9. The court then schedules the case for arraignment.
10. If the defendant pleads guilty, the Judge sets a penalty for the charges (from \$0-\$100 maximum) per charge.
11. If the defendant pleads not guilty, the case is set for trial, with numerous legal proceedings that can result subsequently.

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It is important to note that the policy of the Zoning Administrator is to maintain the following hierarchical order regarding the necessity of enforcement:

1. Remediating immediate safety concerns
2. Compliance with Code
3. Penalizing offenders

It should also be noted that possible penalties for infractions of the restoration District Code are Minor Misdemeanors. This means that the maximum possible penalty is a fine of \$100. A Minor Misdemeanor does not carry with it the possibility of jail time, but is similar to a first speeding ticket in a 1-year period. Another prudent fact is that previous guilty findings on zoning cases before the Judge have not resulted in significant penalties. For example, a recent guilty finding on a repeat offender case involving the operation of a commercial business (daycare in a residential district) resulted in a \$100 fine, with the fine suspended.

Adjournment

Chairman Blake asked for further discussion or comments. There being none, Mr. Mabelitini **moved for adjournment**, seconded by Mr. Bagi and unanimously approved. Meeting adjourned at 8:20 p.m.

APPROVED: 

Board Chairman Adam Blake

ATTEST: 

Mrs. Kimberly Patterson - Board Secretary